

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

DAVID ELLIOT SPRADLING, II,

Petitioner,

v.

CIVIL ACTION NO. 2:05-cv-00619
(Criminal No. 2:02-cr-00247)

UNITED STATES OF AMERICA,

Respondent.


MEMORANDUM OPINION AND ORDER

Pending before the court is the petitioner's motion under 28 U.S.C. § 2255 to vacate, set aside or correct sentence. This action was referred to the Honorable Mary E. Stanley, United States Magistrate Judge, for submission to this court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636(b)(1)(B). The Magistrate Judge has submitted findings of fact and recommended that the court deny the petitioner's § 2255 motion.

Neither party has filed objections to the Magistrate Judge's findings and recommendation. Accordingly, the court **ADOPTS** and incorporates herein the findings and recommendation of the Magistrate Judge, and **DENIES** the petitioner's § 2255 motion.

The court **DIRECTS** the Clerk to send a certified copy of this Order to Magistrate Judge Stanley, counsel of record, and any unrepresented party.

ENTER: March 29, 2006



JOSEPH R. GOODWIN
UNITED STATES DISTRICT JUDGE